

REMARKS

Elections/Restrictions

Upon review of the remaining claims after the restriction requirement filed 4/14/2009, applicant submits an amendment of inventorship under 37 CFR 1.48(b) in conjunction with this response.

Priority

Applicant has amended the specification to correctly set forth the priority application. The application incorrectly cited 10/425,815. This was a typographical error made without deceptive intent. Applicant did cite the correct filing date and attorney docket number of the application (Attorney Docket No. 38187-2663) filed May 30, 2003). The correct Serial Number is 10/452,815, which is commonly owned by the Assignee of the present application, and is concerned with sampling and sensing analytes in a bodily fluid.

Claim Objections

The examiner objects to claims 13, 21, 24, 17, 51, 57 and 65 for informalities. Applicants thank the examiner for the suggested amendments. Applicant has amended the claims to overcome these objections.

Rejections under 35 USC §112

Claims 24, 27, 52, 54, and 65 are rejected under §112, second paragraph, as being indefinite. The claims have been amended or cancelled to overcome this ground of rejection.

Rejections under 35 USC §102

Claims 1, 24, 52, 54, 57 and 65 stand rejected under §102(e) as anticipated by Levaughn et al. (US 7,150,722).

This ground of rejection is respectively traversed.

Rejections under 35 USC §103

Claims 13-17, 24 and 27 stand rejected under §103(a) as obvious over Levaughn et al. (US 7,150,722) in view of Cunningham et al. (US 6,306,104).

These grounds of rejection are respectively traversed.

In one embodiment of the present invention, as set forth in claim 1, a body fluid sampling system for use on a tissue site includes a disposable, a penetrating member driver and a plurality of penetrating members arranged in a radial configuration in the disposable. A processor is coupled to the penetrating member driving configured to provide instructions for a fast-into a tissue site and slow-out velocity out of the tissue site. A plurality of analyte detecting members are positioned in the disposable. At least one of the analyte detecting members is positioned to receive fluid from a wound created by an active penetrating members. The detecting members are not pierced by the penetrating members.

None of the references, either singularly or in combination, teach a body fluid sampling system that includes, (i) penetrating members and analyte detecting members positioned in a disposable, (ii) a processor coupled to a penetrating member driving configured to provide instructions for a fast-into a tissue site and slow-out velocity out of the tissue site and (iii) detecting members not pierced by penetrating members.

CONCLUSION

It is submitted that the present application is in form for allowance, and such action is respectfully requested. The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. 50-4634 (Docket No. PEL-2688). Applicant respectfully requests entry of these amendments for prosecution in this application.

Respectfully submitted,
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